

# SENATE BILL REPORT

## ESB 5165

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As Passed Senate, February 26, 2019

**Title:** An act relating to discrimination based on citizenship or immigration status.

**Brief Description:** Concerning discrimination based on citizenship or immigration status.

**Sponsors:** Senators Saldaña, Hasegawa, Wellman, Darneille, Keiser, Nguyen and Wilson, C.

**Brief History:**

**Committee Activity:** Law & Justice: 2/12/19, 2/14/19 [DP, w/oRec].

**Floor Activity:**

Passed Senate: 2/26/19, 29-20.

### Brief Summary of Engrossed Bill

- Prohibits discrimination based on citizenship or immigration status unless a state or federal law, regulation, or government contract requires a distinction or differential treatment.
- Prohibits discrimination by employers, potential employers, labor organizations, or employment agencies based on citizenship or immigration status.
- Prohibits discrimination in real estate transactions and overcharging or impairing access to public accommodations based on citizenship or immigration status.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** Do pass.

Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Kuderer and Salomon.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Padden, Ranking Member; Holy and Wilson, L..

**Staff:** Melissa Burke-Cain (786-7755)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** Washington's Law Against Discrimination. The Washington Law Against Discrimination (WLAD) prohibits discriminatory practices in employment; places of public resort, accommodation, or amusement; real estate transactions; and credit and insurance. The law protects persons from discrimination based on their race, creed, color, national origin, families with children, sex, marital status, sexual orientation, age, honorably discharged veterans, or military status. The law also protects persons from discrimination based on the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability. WLAD prohibits retaliation against persons who oppose a discriminatory practice, and those who file health care and state employee whistleblower complaints.

Washington State Human Rights Commission. The Legislature established the Human Rights Commission (HRC) in 1949 as the state agency responsible for administering and enforcing the WLAD. There are five commissioners appointed by the Governor, who appoint an executive director. The executive director appoints investigative staff, clerks, and other employees as needed to conduct the day-to-day operations of the agency. The commissioners provide policy direction, adopt regulations, and meet monthly to pass upon the investigative finding determinations recommended by staff, review and approve settlement agreements, and issue board orders setting forth the terms of the legally binding agreements and may vote to grant or deny requests for reconsideration of previously issued investigative findings.

The HRC provides services to any person regardless of their immigration or citizenship status. The HRC does not ask a person about their immigration or citizen status, and does not record that information.

Fair Housing Under Federal and State Law. The HRC has a cooperative agreement with the federal Department of Housing and Urban Development (HUD) to process and investigate dual-filed housing complaints for which the HRC receives funding under the Fair Housing Assistance Program (FHAP). The HRC is an FHAP agency because Washington's law is substantially equivalent to the federal Fair Housing Act. Most of the HRC's housing cases are dual-filed with HUD; however, the state fair housing law has a broader scope, and occasionally the HRC prepares a complaint using the HRC's jurisdiction only.

**Summary of Engrossed Bill:** Discrimination based on citizenship or immigration status is an unfair practice and violates WLAD. A person or entity may make a distinction or treat someone differently based on citizenship or immigration status only if a state or federal law, regulation, or a government contract requires it. An employer, potential employer, labor organization, or employment agency commits an unfair employment practice if it discriminates against a person based on their citizenship or immigration status. A person or entity discriminates in a real estate transaction by refusing to sell or rent to someone who makes a bona fide offer, or refuses to negotiate for the sale or rental of a dwelling based on their citizenship or immigration status, subject to specific exceptions. Any person, their employee, or agent who excludes or overcharges at any place of public accommodation based on someone's citizenship or immigration status commits an unfair practice.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: This measure is not limited to discrimination against persons who may be undocumented. There are many persons living in Washington legally under work visas or other types of visas. These persons also experience discrimination because they are, or are perceived to be, immigrants or citizens of a different nation. This bill recognizes that they should be able to live and work here without fear of discrimination based on their immigration or citizenship status. There can be federal law restrictions that apply, but to the extent that state law can prevent discrimination, it should do so. As to the mortgage payment issue for persons who are undocumented, I know of a person who was deported but is still paying their mortgage. As to renting, there are situations in which landlords take advantage of persons who are undocumented. These persons have been asked to pay higher security deposits, often in cash. When these tenants complain about substandard conditions or needed repairs, the landlord threatens to call ICE. Washington State has 1 million immigrants; that is one in seven persons living in the state. They deserve to be treated with respect and dignity. A landlord should not be able to deny a rental to a family based on their immigration or citizenship status. A hospital should not deny the charity care resource that the law requires. just because of their status. Persons who are discriminated against based on their immigration or citizenship status are being targeted, and their situation is just like discrimination against any protected class. The bill applies to those who live here legally with a visa and recognizes the value of everyone who lives in our state.

**Persons Testifying:** PRO: Senator Rebecca Saldaña, Prime Sponsor; Alex Hur, OneAmerica; Enoka Herat, ACLU-Washington; Xochitl Maykovich, Washington CAN.

**Persons Signed In To Testify But Not Testifying:** No one.